

Assembly Bill 145 (Vincent) Chapter 821
Insurance tax credit

Effective January 1, 2000. Adds and repeals Section 12209 of the Revenue and Taxation Code.

Creates an insurance tax credit for insurance companies that invest in a community development financial institution (CDFI) that lends to urban, rural, or reservation-based communities in this state. The credit against the amount of insurance tax is an amount equal to 20% of the amount of each qualified deposit made by a taxpayer during the year into a CDFI. "Qualified deposit" means a deposit that does not earn interest, or an equity investment, that is equal to or greater than \$50,000 and is made for a minimum duration of 60 months. "CDFI" means a private financial institution located in this state that is certified by the California Organized Investment Network (COIN), or its successor, that has community development as its primary mission, and that lends in urban, rural, or reservation-based communities in this state.

The aggregate credit available to insurance companies by this bill is limited to \$2 million for each calendar year beginning January 1, 1999 but before January 1, 2002. This is not a new \$2 million aggregate tax credit but simply an authorization for the inclusion of insurance companies into the current tax credit only available under the state income tax laws.

In the event a qualified deposit is withdrawn before the end of the 60th month and not redeposited or reinvested in another CDFI within 60 days, a taxpayer is liable for the entire amount of any credit previously allowed. Also, if a qualified deposit is reduced before the end of the 60th month, but not below \$50,000, the taxpayer would be liable for an amount equal to 20% of the total reduction for the year.

While this section will remain in effect only until December 31, 2002, any unused credit could be carried forward until the credit was exhausted, or over the next four years, whichever occurs first.

Sponsor: California Organized Investment Network

Law Prior to Amendment:

Under Section 12201 of the Revenue and Taxation Code, an annual tax of 2.35% is imposed on the gross premiums, minus the return premiums, of insurers doing business in this state.

In the case of insurers transacting title insurance, a tax of 2.35% is imposed on all income except interest and dividends, rents from real property, profits from the sale of investments, and income from investments.

These taxes are imposed on insurers and their property in lieu of all other state, county, and municipal taxes and licenses, including income taxes.

Under current law, Section 12206 of the Revenue and Taxation Code authorizes insurance companies that invest in low-income housing to compete for a gross premiums tax credit granted by the California Tax Credit Allocation Committee. The tax credit is also available under the Personal Income Tax Law and the Bank and Corporation Tax Law, but the tax credit is limited to an aggregate of \$50 million under all three tax laws combined.

Under Sections 17053.57 and 23657 of the Personal Income Tax and Bank and Corporations Tax Laws, respectively, an aggregate tax credit of \$2 million annually may be granted under the state income tax laws for up to 20% of qualifying deposits with a CDFI.

Background:

The current income tax credit for qualified deposits in a CDFI was added in 1997 by Assembly Bill 1520 (Ch. 947, Vincent, et al).

In 1998 Assembly Bills 2414 (Hertzberg) and 2552 (Baugh) contained provisions almost identical to this bill. Both bills progressed as far as the Senate Appropriations Committee. The Board supported both of those measures.

Comments:

1. **Purpose.** This bill is intended to provide insurance companies the same investment tax credit opportunity as available to other businesses by simply correcting an oversight in the original, enabling legislation which omitted insurance companies from the opportunity to compete for the current \$2 million annual aggregate tax credit.
2. **The Board does not foresee any administrative problems with this measure.** The Board of Equalization, the State Controller, and the Department of Insurance share administrative responsibility for the insurance tax program. Section 28 of Article XIII of the California Constitution states that the Board shall assess taxes under the insurance tax law. Upon recommendation from the Department of Insurance, the Board also issues deficiency assessments in cases of underpayment of the tax by an insurer. The Office of the Controller has the

responsibility to collect the tax and issue refunds. Audit verification work is the responsibility of the Department of Insurance.

As the law is currently administered, the Department of Insurance would be responsible for the verification of the tax credit. The tax credit proposed by this measure would not impact the Board's current functions under the insurance tax law.

3. **The annual listings should also be sent to the Department of Insurance.** This bill would require a CDFI to send to the Board an annual listing of taxpayers who make withdrawals of qualified deposits. This bill would also require COIN to provide the Board with, among other information, the amount of the qualified deposits made by each taxpayer and the total amount of qualified deposits. Since the Department of Insurance has a major role in the verification of the tax credit, that agency should also receive a copy of these reports.